1938 **File No.** 2340/36

A CLASS I.W **DEPARTMENT**
& **BRANCH**

Subject:— Confidential Reports.
Proposal of adoption for common form of -

P 15
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A K 1938

File No. 2340/36-8

Ed. Scott. Slip. 21 A.

Std. Secit. 78A e.

G.R., G D., No. 2708, dated 22-5-22.]

Correspondence

DOCKET SHEET (B)

Subject :—

File No. 2340/36

P. W. DEPT.

8. BRANCH.

References :—

Date.	To whom sent.	Notes and instructions.

Copy of a letter from the Government of India, Home Department, No. 230/37-Ests., dated the 3rd March 1938.

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I am directed to address the Provincial Government on the subject of confidential reports on officers. The question now raised is that of adopting a uniform practive in regard to (a) the preparation of confidential reports, (b) the use to which they can properly be put, and (c) the communication of unfavourable reports to the officers concerned.

2. In certain memorials recently addressed to the Secretary of State by officers to whom special additional pensions had not been granted, the argument was used that no intimation had been given to them of any adverse report on their service and that they had not been made aware that their conduct and efficiency had been considered to be other than satisfactory. The Secretary of State has called attention to the principles laid down in the Resolution of the Government of India in the Home Department, No. 1568-1595, dated the 14th September 1915, and has enquired whether any modification is desirable in them or in their application; and has also suggested the desirability of reviewing the whole system of confidential reports in view of the changes which have occurred since that Resolution wa promulgated.

3. As regards the first two points mentioned in paragraph 1 above, the comments of the Secretary of State are that experience of the working c the Central Public Service Commission has shown that much reliance is placed on the confidential reports of officers as a guide to the disposal of cases affecting them; that still greater use of confidential reports will i doubt be made in the case of Provincial Service officers with growing experience of the working of the Provincial Commissions, and that this use o confidential reports to determine the disposal of cases suggests that much greater care is required in drawing them up than was required when they might be regarded as little more than a personal expression of opinion by a superior officer, the weight to be attached to which naturally varied with the reputation of the reporting officer for soundness of judgment.

4. As regards the third point mentioned in paragraph 1, the Secretar of State has had occasion from time to time to exphasize the importance o observing strictly the general procedure laid down in the Resolution of 1 He is inclined to think that the time has come to reconsider the orders c tained in it. He doubts whether the reason given in the resolution of 19 for with-holding reports in regard to defects which are considered irreme

able is really sound. If an officer is worth retaining in the Service, the communication to him even of such defects ought not to "embitter or discourage the recipient". On the contrary it ought to stimulate him to do his best to overcome his defects; and if they really are irremediable and the officer is unable to render satisfactory service, undoubtedly the proper course would be to retire him from the Service. In short, where an officer has exhibited defects, even where these defects may be such as to make it difficult or even impossible for him to remedy them, the Secretary of State is inclined to think that, on balance, it would be fairer to the officer and to Government that the officer should be made aware of the criticisms passed on his work.

5. Practice at present doubtless differs to some extent in different Provinces, and assistance in arriving at a suitable common form of procedure in the future might, it is suggested, be obtained by pooling provincial experience. Further, although the Secretary of State is concerned primarily only with his own services, except in so far as confidential reports are utilised to determine the suitability of officers of the Provincial Services for appointment to posts in the Secretary of State's Services, any agreed results of the examination may be of value both to the Central and Provincial Governments in dealing with their own Services.

6. In respect of the preparation of confidential reports, the Government of India would be glad if the forms of report used for officers of the Secretary of State's Services could be forwarded to them with the opinion of the Provincial Government regarding their adequacy. In particular, the Government of India would value the opinion of the Provincial Government on the following points:—

(a) Should the form of the report provide only, or mainly, for general remarks, or should it provide a number of specific headings for comments concerning character and conduct, energy, tact, executive and magisterial ability, etc., with a column for general remarks? If the Provincial Government favour the adoption of specific headings, what headings do they suggest?

(b) Should the form of the report require reporting officers to give explicitly by way of example instances of good or bad work or conduct upon which the report is based?

(c) Should the form of the report require the reporting officer explicitly to state

the period of time for which the officer in question has served under his control and the degree of personal experience which justified the opinion recorded?

(d) should executive orders require officers upon transfer to have for their successors a full report for incorporation in the report to be forwarded to Government at the time prescribed?

(e) Should the reporting officer be required to give in the periodical report his opinion regarding the suitability of the officer in question for promotion or eligibility for an extra additional pension?

(f) Should the form of the report require superior officers in their comments similarly to give instances of personal experience or the extent of their personal experience to justify their comments?

(g) Should the form of the report require superior officers in their comments to give any reason that there may be for discounting the opinion of the reporting officer?

(h) What should be the period covered by the report i.e. should they be prepared annually or at shorter or longer intervals ?

(i) For what periods of service should an officer be liable to be reported on?

(j) Is it desirable to include in personal files any special reports made in response to inquiries regarding an officer's fitness for promotion of in cases in which an officer's conduct is called in question?

(k) Do the Rules of Business prescribe that reports on Secretary of State's Officers, or at least those reports which are adverse, require the final orders of the Governor?

Provision for all or some of these points is doubtless already contained in the forms, executive orders and Rules of Business of the Provincial Government. Other suggestions may occur to the Provincial Government and the Government of India would be grateful for any observations which appear to be partinent.

7. As regards the use to which confidential reports can be put, the Government of India are inclined to think that present practive affords a reliable guide. For the making of non-disciplinary decisions, for example in regulating promotions and appointments, and in respect of the admissibility of extra additional pensions, the fullest use of confidential reprts is clearly justified. As regards disciplinary cases, it is for consideration whether the confidential file of an officer should be made available to an inquiring officer or tribunal, whether constituted departmental or under the Public Servant's Conduct Inquiries Act, 1850, in cases where the general character of the officer charged is not in issue, either as the subject of inquiry or to rebut a plea of good character.

In respect of decisions made by Government, whether on the report of an inquiring officer or tribunal, or in cases in which a formal inquiry is not necessitated by rule 55 of the Civil Services (Classification, Control and Appeal) Rules, it seems clearly desirable that an officer's general character as evidenced by his confidential file should be brought under consideration. There then remains the question whether, when disciplinary cases are referred to the Public Service Commission, the Commission should see the confidential file of the officer concerned, even in cases in which the officer's general character is not in issue. It appears to the Government of India that the Commission in tendering advice should have available all the papers upon which a decision of Government may have to be based, and that the Commission as a reviewing and advising authority should, if it requires, see the confidential roll of the officer concerned. The Government of India would be glad to have the comments of the Provincial Government on the points raised above and on any others that occur to them under this head.

8. Finally, it is necessary to consider the procedure for communicating unfavourable reports to the officers concerned. The arguments for and against communication are ully summarised in paragraph 2 of the Resolution of 1915. The main question is whether there should be relaxation of the precept that only such defects should be pointed out as can be remedied "since it would serve no useful purpose to communicate such criticisms as lack of ability or intelligence". It might be held that the instructions contained in that Resolution are generally sound if they are carried out, and that all that is necessary is to ensure that they are carried out with regularity and without undue hesitancy. In respect of instructions (b) and (c) contained in paragraph 3 of the Resolution, some modification might be considered desirable, if not in the text of the instructions themselves, at least by way of assistance in the interpretation of them. It is possible that the interpretation of irremediable defects adopted may be unduly wide. Few defects are irremediable in the sense that they cannot be offset by increased application and energy. Further, even though a defect may be properly considered irremediable, it may be desirable, not perhaps to inform the officer whenever a report is received of such a defect, but at least to inform him on suitable occasions that he has failed to render satisfaction in certain respects. In other words, the injunction contained in instruction (b), that "in no case should an officer be kept in total ignorance for any length of

time that his superiors after sufficient experience of his work are dissatisfied with him", should be followed even if his defects are beyond remedy. Here again the Government of India would be grateful for the views of the Provincial Government on the points above-mentioned and on any others that occur to the Provincial Government.

9. The matter is one on which the Provincial Government will desire to give considered views under no stress of urgency: but the Government of India would be obliged if an answer could be sent by the 1st of June next.

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Below copies of ~~xiks~~ a letter from the the Government of India, Home Department, No. 230/37-Ests., dated the 3rd March 1938.

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No. 2263/34-D.

Political and Services Department.

Bombay Castle, 23rd March, 1938.

Forwarded with compliments to the undermentioned departments for favour of remarks on the various points raised in the Government of India's letter.

2. It is requested that replies may be sent by the 1st May 1938 at the latest.

By order of the Governor of Bombay,

Sd/-

For Chief Secretary to the Government of Bombay,

Political and Services Department.

To

The Home Department,

The General Department,

The Educational Department,

The Revenue Department,

The Finance Department,

The Legal Department,

The Public Works Department,

Statement showing the various raised by the Government of India.

Points raised by the Govt. of India.	Office note.
(a) Should the form of the report provide only, or mainly, for general remarks, or should it provide a number of specific headings for comments concerning character and conduct, energy, tact, executive and magisterial ability, etc., with a column for general remarks? If the Provincial Government favour the adoption of specific headings what headings do they suggest?	(a) The qualification reports in the case of members of the I. S. E. are submitted in the form prescribed in G.C.M.No. P. 215/1557, dated 23-2-24. This form does not provide for any specific heading except in regard to the period for which the report is made and the length of service of the officer under the reporting officer and in the Deptt. This form is in vogue for a number of years and served the purpose. It will perhaps suffice if the form to be adopted provides mainly for general remarks as at present.
(b) Should the form of the report require reporting officers to give explicitly by way of example instances of good or bad work or conduct upon which the report is based? : A	(b) As much reliance is placed on confidential reports of officers as a guide to the disposal of cases affecting them, much greater care is required to be taken in drawing them up. The proposed provision (vide 'A' opposite) would be useful in this direction.
(c) Should the form of the report require the reporting officer explicitly to state the period of time for which the officer in question has served under his control and the degree of personal experience which justifies the opinion recorded?	(c) The present form provides for the length of service under the reporting officer. Provision for degree of personal experience which justifies the opinion recorded would be desirable.
(d) Should executive orders require officers upon transfer to have for their successors a full report for incorporation in the report to be forwarded to Government at the time prescribed?	(d) Whenever an officer in charge of a Circle or a Divn. vacates his charge on transfer or on long leave it is usual for him to record his report on the officers under him as a guide to his successors who if he thinks necessary, forwards such reports to Govt. along with his remarks. An executive order in the matter is, however,

in para. 6 of the Govt.of India, Home Deptt.Letter No. 230/37-Ests.dated the 3rd March 1938.

Orders of the Dy. Secy.	Order by the Secy.
(a) I agree with the O.N. that the form in use at present is satisfactory; the report if a number of specific headings are adopted, is apt to become stercotyped it seems better that an officer should express in general terms his opinion clearly indicates, however, whether the party tender report is fit for promotion to higher rank.	As in O. N.
(b) Yes, for such reports to be of real value it is inserted that the utmost care should be taken in their preparation.	Yes.
(c) The present form is suitable, if an reporting officer has had little and no opportunity for personal experience of the work of the party under report, he should, and generally does, say so.	I agree.
(d) This is generally done at present, the practice may be comprived by an Executive order.	Yes.

Statement showing the various points raised by the Government of India.

Points raised by the Govt.of India.	Office note.
(e) Should the reporting officer be required to give in the periodical report his opinion regarding the suitability of the officer in question for promotion or eligibility for an extra additional pension?	(e) Such a provision is necessary and should be made.
(f) Should the form of the report require superior officers in their comments similarly to give instances of personal experience or the extent of their personal experience to justify their comments?	(f) and (g) Provision for recording reasons may only be made in the case where the superior officer does not agree with the reporting officer.
(g) Should the form of the require superior officers in their comments to give any reason that there may be for discounting the opinion of the reporting officer?	
(h) What should be the period covered for the report i.e. should they be prepared annually or at shorter or longer intervals?	(h) The reports should be annual as at present.
(i) For what periods of service should an officer be liable to be reported on?	(i) Confl.reports on the officer are useful in deciding his promotion in the beginning and middle of his servic In the case of an officer in the fag-end of his service such reports are useful as regards the grant of pension etc. The officer should therefore be liable to be reported on throughout the period of his service.
(j) Is it desirable to include in personalt files any special reports made in response to inquiries regarding an officer's fitness for promotion or in cases in which an offiesr's conduct is called in question?	(j) At present extracts from documents in which an officer has been praised or censured are kept in his personal file. Such action is desirab

(k)....

Points raised by the Govt. of India.	Office note.
(k) Do the Rules of Business prescribe that reports on Secretary of State's officers, or at least those reports which are adverse require the final orders of the Governor?	(k) The necessary provision exists in the present Rules of Business that all such cases require final orders of the Governor.

in para.6 of the Govt.of India, Home Deptt. letter No.230/37-Ests. dated the 3rd March 1938.

Orders of the Dy.Secy.	Orders by the Secy.
(e) I agree with O. N.	As in O. N.
(f) :I agree with O. N.	As in O. N.
(g) :	
(h) Reports may be annual as at present.	Should be annual.
(i) As in O. N.	As in O. N.
(j) The present practise should continue.	Yes.
(k) As in O. N.	As in O. N.
Id/- 17/5	Id/- 17/5

E. B.

Submitted.

2. The Govt. of India have addressed the Provl. Govts. on the subject of confidential reports on officers. The question raised is that of adopting a uniform practice in regard to (a) the preparation of confidential reports (b) the use to which they can properly be put and (c) the communication of unfavourable reports to the officers concerned. The circumstances leading to this question are explained in paras.2 to 5 of the Govt. of India letter.

3. In regard to (a) the preparation of confidential reports.- The Govt.of India desire to know the form of report used by Provl. Govt. for officers of the Secy. of State's services & and local Govt's opinion regarding its adequacy, In particular the G. of I. desire to have information in regard to the specific points mentioned in para-6 of their letter. This Deptt. is concerned with the I.S.E. The qualification reports in the case of members of this service are submitted in the form prescribed in G.C.M.No. P.215/1557, dated 23-2-24. (The qualification reports on the members of the Provl. service are also submitted in the same form). The form does not provide for any specific headings except in regard to the period for ~~any specific headings~~ which the report is made and the length of service of the officer under the reporting officer and in the Deptt. In submitting this report the instructions contained in paras.21 and 23 of the P.W.D. Manual are however followed. So far as this Deptt. is concerned the existing form is adequate and may continue.

As regards the specific points raised by the Govt.of India a statement reproducing these points with notes by office thereon is put up and orders of the Dy. Secy. and the Secy. are sollcited in the column provided for the purpose in that statement.

4. In regard to (b) the use to which they can properly be put. Attention is invited to the remarks of the Govt.of India in para.7 of their letter. This Deptt. may agree with the view expressed ther in.

Yes :
Id/- 17/5;

5. In regard to (c) the communication of unfavourable reports to the officers concerned.- Please see para.8 of the Govt. of India letter. The existing instructions of this Govt. in the matter will be found in para.22 of the Bombay P.W.D.Manual which are practically

the same as those contained in the Govt.of India Reso. of 1915 referred to. It is for consideration whether this Deptt. should agree with the view expressed by the Govt.of India at 'A' in their letter. In this connection reference is requested to the orders recently issued in G.R.(P. & S.D.) No. 2263/34, dated 22-4-38.

: Yes I think so.
Id/-
17/5

6. On receipt of orders copies of the relevant notes will be forwarded U.O. to the P. & A.Deptt.. with reference to that Deptt. Memo. 2263/34-D, dated the 23-3-38 within.

Id/-

27-4-38.

Id/-

7-5-38.

Please see remarks on the table on page 8-11-ante.

I consider that the confidential Report should from ~~xxxxx~~ a very valuable racord of ~~his~~ an officer's service, but due to the differences in human nature, such reports must necessarily vary in value dependent upon the reporting officer. I consider that the necessity for exercising great care on their preparation should be regularly impressed upon all ~~xx~~ concerned.

I am of opinion that such reports may be made available to committees investigating charges against ~~as~~ officers after the ~~xxx~~ evidence has been heard. Unfavourable reports should invariably be tactfully communicated to the officer's concerned.

Subject to the above remarks I agree generally with the O.M.

Id/-

17/5

Hargins & table.

I agree with Dy. Secy.

Id/-
17/5

Resubmitted with the enclosed draft for appl.

Id/-

19/5/38.

No. 2350/36-R.
Public Works Department.
Bombay Castle, 25th May 1938.

Memorandum.

Subejct:- Confidential reports on officers.

. . . . . .

The undersigned presents compliments to the Chief Secretary to Government, Political and Servides Department and with reference to his endorsement No.2263/34-D, dated the 23rd March 1938 on the subject mentioned above, is directed to state that the remarks of this Department on the various points mentioned in the Government of India letter forwarded therewith are given below.

2. The question raised in the Government of India letter is that of adopting a uniform practice in regard to (a) the preparation of confidential reports, (b) the use to which they can properly be put and (c) the communication of unfavourable reports to the officers concerned.

3. Regarding (a) Preparation of confidential reports.- This Department considers that the confidential report should form a very valuable record of an officer's service, but due to the personal factor such reports are liable to vary in value according to the reporting officer. The necessity for exercising great care on their preparation should therefore be regularly impressed upon all concerned.

The qualification reports in the case of members of the Indian Service of Engineers (as also of the Bombay Service of Engineers) are submitted in the form prescribed in Government Circular Memorandum No.P.215/1557. dated 23rd February 1924 a copy of which is enclosed. This Department considers that this form is satisfactory.

The following remarks are offered with reference to the several points mentioned in paragraph 6 of the Government of India letter in question:-

Paragraph 6(a).-As stated above, the qualification reports of Indian Service of Engineers officers are prepared in the form prescribed by this Government in 1924. This form does not provide for any specific headings except in regard to the period for which the report is made and the length of service of the officer under the reporting officer and in the Department This form is in vogue for a number of years and serves the purpose. This Department therefore considers that the form to be adopted for the submission of qualification reports should provide mainly for general remarks as at present. The reporting officer should however clearly indicate whether the officer under report is fit and suitable for promotion to the next higher grade.

Paragraph...

Paragraph 6(b).As much reliance is placed on confidential reports of officers as a guide to the disposal of cases affecting them, it is essential that the utmost care should be taken in their preparation. The proposed provision would be useful in this direction.

Paragraph 6(c).- The present form provides for the length of service under the reporting officer and is suitable. If the reporting officer has had little or no opportunity of personal experience of the work of the party under report, he should, and generally does, say so.

Paragraph 6(d).- Whenever an officer in charge of a Circle or a Division in this Department vacates his charge on transfer or on long leave it is usual for him to record his report on the officers under him as a guide to his successor who, if he thinks necessary, forwards such reports to Government along with his remarks. This practive should be confirmed by an executive order.

x Paragraph6(e).-Such a provision is necessary and should be made.

Paragraph 6(f) and (g).- Provision for recording reasons should only be made in the case where the superior officer does not agree with the reporting officer.

Paragraph 6(h).- The reports should be annual as at present.

Paragraph 6(i).- Confidential reports on an officer are useful in deciding his promotion in the beginning and middle of his service. In the case of an officer in the last stage of his service such reports are useful as regards the grant of pension etc. The officer should therefore be liable to be reported on throughout the period of his service.

Paragraph 6(j).-At present extracts from documents in which an officer has been praised or censured are kept in his personal file. This practice should continue.

Paragraph 6(k).-The necessary provision exists in the present Rules of Business that all such cases require final orders of Government vide paragraph 6 of Instructions issued by the Government of Bombay.

4. Regarding (b) Use to which the reports can properly be put.— This Department agrees with the views expressed in paragraph 7 of the Government of India letter in question and considers that confidential reports should be made available to committees investigating charges against an officer, after the evidence has been heard.

5. Regarding (c) Communication of unfavourable reports to the officers concerned.-This Department agrees with the view expressed in

,the.....

the concluding portion of paragraph 3 of the Government of India letter and considers that unfavourable reports should invariably be tactfully communicated to the officers concerned.

By order of the Governor of Bombay,

Id/- 26/5 O/C

Deputy Secretary to the Government of Bombay,

Public Works Department.

D. A. -Copy of the form

referred to.

Confidential Reports. -

Communication to officers in civil employ of unfavourable reports on them by their Superiors.

GOVERNMENT OF BOMBAY.

POLITICAL AND SERVICES DEPARTMENT.

Resolution No. 2263/34.

Bombay Castle, 22nd April, 1938.

Read Government Resolution No.9830, dated the 16th August 1933.

RESOLUTION.----It has come to the notice of Government that the orders issued in Government Order, General Department, No. 9199. dated the 29th November 1915, are not being regularly followed. All Heads of Offices are therefore requested to see that the orders in question are strictly observed in future. A note should be made on the files in question of instances in which adverse remarks have been communicated in accordance with the instrucation.

By order of the Governor of Bombay,

G. MILES,

Chief Secretary to the Government of Bombay,

Political and Services Department.

To

The Secretary to the Governor,

* The Registrar, High Court, Appellate Side, Bombay,

* The Prothonotary and Senior Master, High Court, Bombay,

All Heads of Officers under the several Departments of the Secretariat,

All Departments of the Secretariat.

*By letter.

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No. of 1938.

Copy forwarded for information and guidance to

B.V. Nevasi
7/11/38